WILBUR BAILEY, M.D. (2007 Wilshire Boulevard, Los Angeles).—The author's paper has very properly emphasized the danger of complications, with the present trend toward progressively higher dosages of more penetrating x-rays. With the use of very high voltages in treating cancer of the cervix, for instance, the amount of radiation is limited by the reaction of the pelvic structures themselves under these conditions, rather than the skin reaction as formerly. Postradiation sigmoiditis or proctitis may prove to be complications much more serious than skin damage.

Protracted fractional radiation, as recommended by Coutard, undoubtedly has been a definite advance in radiation therapy. However, the fact that a cancer cell is most vulnerable during its actively growing phase (*i. e.*, during mitosis) still holds. In rapidly growing lymphosarcomas of the tonsil, we have found huge doses given in a few days' time not only theoretically better, but practically resulting in disappearance of lesions which had failed to respond satisfactorily to protracted fractional radiation. Conversely, very slow-growing cancers, such as thyroid metastases in bone, may respond most favorably if treatment is given in short periods every few months over a period of a year or more. Under these conditions the blood supply of the tumor is markedly decreased and its growth is checked, because of the vascular sclerosis caused by repeated doses of radiation.

LOS ANGELES COUNTY HOSPITAL COLLECTION BUREAU*

HOW LOS ANGELES COUNTY CHARGES THE INDIGENT SICK FOR HOSPITALIZATION, WHILE ACCEPTING GRATUITOUS MEDICAL SERVICE TO THE VALUE OF ABOUT TWO MILLION DOLLARS ANNUALLY, FROM ATTENDING PHYSICIANS AND SURGEONS

By GEORGE H. KRESS, M.D.
Los Angeles

Foreword.—The following exhibits merely scratch the surface of matters discussed and the principles involved. They are given place in this issue to substantiate and amplify the editorial comments on page 73. As there stated, it is of greatest importance to both the citizenry of Los Angeles and California, and the medical profession of the State, that a full investigation of the billing and collection procedures of Los Angeles County be made, to the end that any methods not having warrant in California law, or that indicate a leading to deplorable results, to either public or profession, be carefully reconsidered, that needed changes may be made. It would seem that an impartial investigation, apparently much needed in the premises, might well be made by the Grand Jury of Los Angeles County, which body has both legal authority, and the financial and other means to institute a thorough study of the situation. In the past, each year's Grand Jury has made a report on the county's charitable institutions. Since the last Grand Jury was in session, new problems, as herein outlined, have arisen, and, because of the wide and serious ramifications involved in these more recent methods, a painstaking and intensive survey may well be in order.

The correspondence and other data submitted explain themselves, and, when placed together, should make clear the reasons for such editorial comments as appear in this issue of the JOURNAL. Brief explanatory comments are made in the Exhibits, which follow, these being appended as author's "Comments," each keyed by number into the text. For convenience in perusal, some italics, paragraphs, and florets have been inserted in part of the correspondence. Comment items, with brackets, are by the contributor of this paper.

* This paper was contributed by Dr. George H. Kress, Los Angeles, who has been a member of the attending staff of the Los Angeles County Hospital and of the medical board of its attending staff for more than twenty-five years.

EXHIBIT A

Presents:

1. A letter, dated October 22, 1937, from Dr. George H. Kress to Mr. Everett J. Gray, executive superintendent of the Los Angeles County Hospital, dealing with the new system of billing "all" patients of the Los Angeles County Hospital for hospitalization (not medical) care, and the legal and other background therefor.

2. Superintendent Gray's letter, of a month later, in reply to the above.

* * *

(1. Letter from Doctor Kress to Superintendent Gray)

"Los Angeles, October 22, 1937.

Mr. Everett Gray,
Superintendent, Los Angeles County Hospital,
1200 North State Street,
Los Angeles, California

Dear Mr. Gray:

For some time it has been in my mind to ask you to send me information concerning the amount of moneys collected by the County of Los Angeles from patients who receive medical and surgical care at the Los Angeles County Hospital. [Hospitalization, not professional care.]

It is particularly brought to my mind in the case of the boy Robert Espinoza, concerning whom I wrote today to the Collection Division of the County of Los Angeles, as per enclosed letter.†

I take it that in your own Los Angeles County Hospital office you have records that are easily accessible which show the amount of money annually received from citizens who have been in-patients at the Los Angeles County Hospital. Also the number of citizens who are annually accepted as in-patients, and who do not pay any refunder to the County of Los Angeles. . . . I know you will be glad to send to me the information.

If there are any printed or mimeographed reports that cover this matter I shall appreciate the receipt of the same, and will thank you if you can mark or call my attention to the items that pertain to the subject herein discussed.

This entire matter of refunder to the County of Los Angeles for hospitalization care in the Los Angeles County Hospital is one in which the medical profession is naturally interested. I note in the statement rendered to Mr. Antonio Espinoza that the daily rate which is charged is the sum of $4.32. Kindly write and inform me what is the per capita cost in the care of patients that was listed in the three last annual reports for Los Angeles County Hospital. In other words, does this item of $4.32 per day agree for the current year with the figures which have been previously reported by the Los Angeles County Hospital as

† To conserve space, this letter is not printed.—Editor.

the cost of the care for each patient in that institution?

Have you any additional information that you may be able to send me? It has long been in my mind to discuss this subject editorially in the OFFICIAL JOURNAL of the California Medical Association, and I do not wish to take up the matter until I have at hand as complete data on the subject as it is possible to obtain.

Thanking you for your attention and coöperation in this, and with best personal wishes.

Cordially yours,
GEORGE H. KRESS, M.D."

* * *

(2. Reply of Superintendent Gray to Editor)

"Office of the Superintendent,
Los Angeles County General Hospital
Los Angeles, November 3, 1937.

Dear Doctor Kress:

Subject: 'Hospital Costs and Collections.'

Attached report[1] is sent in compliance with your request of October 22, 1937.

Very truly yours,
EVERETT J. GRAY,
Executive Superintendent."

* * *

[1] Comment.—A better understanding of the "attached report" may be had if Item 8 of the Appellate Court opinion in the Kern County Hospital case, as given on page 108, and the informal opinion of Hartley F. Peart, general counsel of the California Medical Association, on page 109, are first read. Such perusal should indicate at once that somewhere, somehow, the Kern County Appellate Court opinion has been tremendously "stretched."

* * *

(3. Enclosure: "Attached Report")

"The Los Angeles County General Hospital
1200 North State Street, Los Angeles, California
Los Angeles, November 3, 1937.

The amount of money received[2] from citizens who have been inmates of the Los Angeles County General Hospital was, for the fiscal year 1936-1937, $319,741.10, and for the first three months of the fiscal year 1937-1938, $87,741.01. [Ed. note.—For the year, the estimated amount would be $350,964.]

* * *

[2] Comment.—In the last fiscal year ending July 1, 1937, the total "hospitalization income" of the County of Los Angeles from patients who were socially serviced before admission is stated as $319,741.10. The estimated present fiscal year income, based on the first three months, is $350,964, or a probable $31,222.90 in excess of last year. Let it be remembered, however, as stated in the succeeding paragraph of Mr. Gray's letter, that since July 1, 1937, the Social Service Department has ceased to keep records of "free" (presumably indigent?) patients. Why?

* * *

The total number of admissions, exclusive of births, for the fiscal year 1936-1937 was 60,741. Of this number, Social Service records indicate that 38,672 were accepted as "free" patients. The remainder were to pay a part or all of the cost of their care.

Since July 1, 1937, no record of the number of so-called "free" patients has been maintained by Social Service or the Hospital.

All patients[3] discharged from the Hospital since July 1, 1937, *have been billed at County cost in accordance with the requirements of the Kern County Decision,* such patients to pay all or a part of the cost of their care, *if and as they become financially able to do so.*

* * *

[3] Comment.—If we understand this term aright, it means that *every patient,* even though he be absolutely indigent, is billed for hospitalization by the County of Los Angeles! More than that, we have been told that he is made to sign papers, in which, we understand, he practically promises to pay the hospitalization charges in the future; and further, if he has any means at the time, or is liable to have in the future, this indigent citizen, who is so unfortunate as to also be sufficiently sick to need hospital care, must then give the County of Los Angeles a lien on such real or personal possessions or prospective income!

* * *

The responsibility for collection of this legal obligation is that of the Charities' Collection Division.

Social Service investigates the eligibility of patients for care in accordance with the State Public Welfare Act, county ordinances and resolutions of the Board of Supervisors,[4] but does not classify them as to "free," "part" or "full" pay.

* * *

[4] Comment.—To secure copies of the "Public Welfare Act, County Ordinances and Resolutions of the Board of Supervisors" is no easy task. In a proper investigation, these should all be brought out into the light, for study and opinion by competent authorities.

* * *

The collection of moneys for all or any part of care rests with the *Charities' Collection Division subject to legislative regulations.*[5]

* * *

[5] Comment.—What has been stated in Comment No. 4 applies also to "legislative regulations." In due time, it is to be hoped that the County of Los Angeles will be prepared to submit all such legal authority.

* * *

A copy of Board Resolution,[6] *effective July 1, 1937, is attached hereto. The rates set up in this resolution include fixed overhead,* such as depreciation on buildings and equipment, interest on bonded indebtedness, workmen's compensation and other insurance. This resolution is subject to

amendment when so indicated by the institutional cost records.

* * *

[6] Comment.—This "Board Resolution of June 29, 1937" is a very interesting addendum. It is only fair to assume that Mr. E. J. Gray, executive superintendent of the Los Angeles County Hospital, and the medical director, Dr. Phoebus Berman, as the executive heads of the Los Angeles County Hospital, must either have prepared this schedule, in whole or in part, or acquiesced therein, before its submittal and recommendation for passage, to the lay Board of Supervisors.

The ward rates to indigent in-patients of the Los Angeles County Hospital seem to be in excess of the average of those charged in private hospitals in Los Angeles, as witness: California Hospital, $4; Methodist Hospital, $3.75; Cedars of Lebanon Hospital, $4.50.

The County Hospital hospitalization rates for "Special Services" vary greatly from those of private hospitals of the city of Los Angeles. One or two examples of such astounding and excessive variations for "use of operating room" will be given under Exhibit C, on page 105.

* * *

The operating room service unit mentioned in the resolution is the basis for computation of operating room cost. It is comparable to the operating room cost of private hospitals in that *it does not include any amount for the service of the surgeon.* However, the services included and method of computation differ somewhat from those of the private institution.

The Kern County Decision[7] *requires that the charges billed to patients* be according to the type of service received and include a pro rata share of such fixed overhead as depreciation, interest and insurance.

* * *

[7] Comment.—What the "Kern County Decision *requires*" is evidently a matter of opinion. It will be interesting to learn how much of the "capital investment" (land, buildings and equipment) of the Los Angeles County Hospital was brought forward to be used in the computation of the rate schedule. And whether, for instance, in including the new seventeen million dollar acute unit of the institution, such a matter as a "call system" for which the county paid in excess of ninety thousand dollars, but which was never used and later salvaged in being sold for a few thousand dollars, is today included in hospitalization charges against the indigent and near-indigent sick of the county?

* * *

The average over-all cost [for a ward bed, per day] *for the three prior fiscal years*[8] was as follows:

Fiscal year 1934-1935	$4.08
Fiscal year 1935-1936	4.39
Fiscal year 1936-1937	4.42

* * *

[8] Comment.—The average daily charge for a ward bed in one of the private hospitals of Los Angeles that have accredited standing from the Council on Hospitals of the American Medical Association, and from the American College of Surgeons, is about four dollars. In making their charges, these private hospitals must take into account and include items such as the capital investments of their plants, taxes, and depreciation. The Los Angeles County Hospital, with a large number of buildings on a thirty-five acre tract, the Acute Unit Building alone costing seventeen million dollars to erect and equip, may have a total capital investment of, say, twenty-five million dollars, on which, if it were a private hospital, it would be mandatory to pay taxes. Query: Are the interest charges on the twenty-five million dollar capital investment, plus the taxes that would be levied thereon, included in the estimation of the $4.08, $4.09, $4.42 daily ward rates of the last three years? If not, what, then, would the true daily ward rate be? These facts must be kept in mind in comparing costs of equivalent hospitalization service of such a public hospital and private institutions.

* * *

The over-all operating cost listed in the annual reports includes such extraneous services as Ambulance and Mortuary, but does not include depreciation, interest and insurance. In billing under the Kern County Decision, extraneous services are excluded from the basic ward service charge and billed only to those patients who receive them.

Eligibility for admission is determined[9] *by Social Service.* If the patient is financially able to pay anything toward the cost of his care, the ascertainment of such financial ability and future follow-up are responsibilities of the Charities' Collection Division, which undertakes the securing of *reimbursement to the county from recipients of county aid whether the aid given was institutional or direct relief.*

EVERETT J. GRAY,
Executive Superintendent."

* * *

[9] Comment.—The Social Service Department evidently decides who are the "no pay" (indigent) or "part pay" (near-indigent and non-indigent?) patients, to be admitted to the Los Angeles County Hospital. If such is the procedure, the Department of Charities of the county must either have written such rules or acquiesced therein.

Copies of such rules, with dates on which promulgated, and by whom drafted and recommended, are of importance to both the great body of citizenry and the thousands in the medical profession, and should be carefully examined and checked.

* * *

(Copy)

Resolution of Los Angeles County Board of Supervisors of June 29, 1937

"Resolution adopted by the Board of Supervisors, June 29, 1937, covering Schedule of Charges for Care in County Institutions:

In the case of aid granted by institutional care, the reasonable charges therefor, which shall be the measure of reimbursement to the county by indigents and their liable kindred, shall, commencing July 1, 1937, be and the same are hereby fixed as follows, to wit:

In Los Angeles County General Hospital

Ward Care	Per patient per day
Pediatrics	$4.11
Orthopedic	4.10
Ear, nose and throat	3.81
Eye	4.32
Skin and malaria	3.54
Surgical	4.15
Gynecology	4.47
Genito-urinary	3.82
Neurological surgery	4.64
Medical	3.81
Obstetrical (adults)	4.46
Obstetrical (infants)	1.00
Malignancy	3.91
Infected obstetrical	4.23
Jail	5.83
Tuberculosis	3.17
Psychopathic	6.39
Communicable disease	8.54
Neurological medical	4.39

In addition to such charges for ward care, there shall be added charges for the cost of any special services, in accordance with the following schedule:

Special Services	
Ambulance (per patient per day [trip?])	$2.50
Mortuary (per death per day)	2.91
Dental treatments (per visit per day)	1.58
Dental x-rays (per film)	.10
Surgery (per operating room service unit*)	.085
Blood for transfusion (per cubic centimeter if not donated)	.05
Orthopedic services (per operating room service unit*)	.04
Birth room (per operating room service unit*)	.12
Infected obstetrical (per operating room service unit*)	.12
X-rays (plus cost of film according to size and number used, at the following rates: Each film, 14x17 in., 66¢; 11x14 in., 44¢; 10x12 in., 34¢; 8x10 in., 22¢; 6½x8½ in., 10¢; 5x7 in., 12¢.)	
Pelvis	1.98
Skull (routine)	2.69
Skull (special)	4.82
Mandible	1.98
Mastoid	2.69
Facial	1.98
Sinus	2.69
Spine (cervical)	3.40
Spine (anterior, posterior and lateral)	1.98
Spine (multiple)	2.69
Extremity (single)	1.27
Extremity (multiple)	3.40
Shoulder	1.27
Hip	1.98
Thorax	1.27
Chest (adult)	1.27
Chest (child)	2.69
Chest (anterior, posterior and lateral)	1.98
Abdomen (plain)	1.27
Gastro-intestinal	3.40
Gall bladder	3.40
Foreign body	3.40
Kidney, ureter, bladder study	4.82
Fluoroscopies	
Gastro-intestinal with meal	3.33
Gastro-intestinal with enema	1.98
Chest	1.98
To locate foreign body	1.98
X-ray therapy (per hundred roentgen r units)	.72
Radium therapy (per milligram hour)	.04

* Explanation of operating room service unit: *The total operating room service units per operation is obtained by multiplying the actual number of minutes spent by the patient in undergoing the operation by the number of county paid persons in attendance.* The term "operating room" is not confined to surgical operations, but is a general term also applicable to orthopedic and obstetrical services."

EXHIBIT B

Presents:

1. A letter dated November 2, 1937, from Doctor Kress to the Director of the Division of Accounts and Statistics of the Los Angeles Department of Charities.

2. A letter, dated November 10, 1937, from Doctor Kress to the Director, asking for specific information on eighteen items.

3. A letter, dated December 2, 1937, from the Director, in reply to Doctor Kress's letter of November 10, 1937.

* * *

(A letter dated November 2, 1937, from Doctor Kress to the Director of the Los Angeles Department of Charities—Division of Accounts and Statistics, asking for copies of county ordinances on the subject)

* * *

"Los Angeles, November 2, 1937.

Mr. J. C. Greer, Director, Accounts and Statistics,
Department of Charities,
County of Los Angeles,
Los Angeles, California

Dear Mr. Greer:

Referring to your letter of November 1, 1937, in the case of the boy, Robert Espinoza (concerning whom my letter has been referred to you by Mr. Ickes), I note that you state 'under the laws that exist, it is impossible to cross the account off the books.'

Kindly send me copy of the laws that apply in this case, or give me the references thereto.

If the county ordinances have been printed or mimeographed, I take it that it will be possible for you to mail me a copy. I enclose a stamped reply envelope.

Thanking you for your courtesy in this,

727 West Seventh Street.

Yours very truly,

GEORGE H. KRESS, M.D."

* * *

(A letter dated November 10, 1937, to the Director of the Los Angeles Department of Charities—Division of Accounts and Statistics, asking replies to eighteen questions pertaining to the subject)

"Los Angeles, November 10, 1937.

Mr. J. C. Greer,
Director, Accounts and Collections,
County Department of Charities,
Los Angeles, California

Dear Mr. Greer:

Acknowledging your reply of November 8 to my own letter of November 2 (in answer to your own of November 1, 1937), regarding the lad, Robert Espinoza, a former patient at the Los Angeles County Hospital, whose father, Antonio Espinoza, is employed by me on part time as a laborer-gardener (see my previous letters to Superintendent Gray of the Hospital and Assistant Superintendent of Charities Sydney F. Ickes), I am writing to again call attention to the fact that the father, Antonio Espinoza, is on a tentative monthly income of, say, eighty dollars, rents a house, and clothes and feeds himself, his wife and three minor children; further, that you suggest this man pay to the County of Los Angeles the sum of one dollar per month until the sum of some thirty-two dollars or so, at a $4 plus rate per day, for his son's stay at the Los Angeles County Hospital, has been paid to the County of Los Angeles.

To date, no one has given me the information I requested concerning the rules of the County of Los Angeles that determine the dividing line between total or part-pay patients, on the one hand, and no-pay patients on the other.

These new rules of the County of Los Angeles, regarding supposedly indigent patients at the Los Angeles County Hospital, are of much interest to the medical profession, especially since the members of the Attending Medical and Surgical Staff of the institution give gratuitous professional services that annually represent a donation having a money value in excess of one million dollars.

It is our purpose to discuss this subject editorially when the time seems proper, and to that end I would appreciate further information thereon. Attached you will find some suggestive questions on which further knowledge is desired.

I shall appreciate your department giving me such information as comes within its province, but am sending copies also to Mr. Rex Thompson, Superintendent of Charities; Mr. Sydney Ickes, Assistant Superintendent, and Mr. Everett Gray, Superintendent of the Los Angeles County Hospital. A copy also goes forward to Supervisor Leland Ford, because the lad, Robert Espinoza, lives in Mr. Ford's supervisorial district.

Looking forward to replies from the county departments having responsibilities in the matter under discussion, I am

727 West Seventh Street.

Very truly,

GEORGE H. KRESS, M.D.,
Editor."

* * *

(Reply, dated December 2, 1937, of the Los Angeles Department of Charities—Division of Accounts and Statistics, to the letter of November 10, 1937, asking for specific information on matters under discussion)

(Copy)

"County of Los Angeles,
Department of Charities
Los Angeles, California

Bureau of Indigent Relief:
Los Angeles County General Hospital;
Olive View Sanatorium;
Rancho Los Amigos [County Farm]

Los Angeles, December 2, 1937.

Dear Doctor Kress:

This will reply to your letter of November 10, requesting information relative to the collection program of the Department of Charities. I am very glad to have the opportunity to clarify the policies and procedures of this department with respect to collection of indigent accounts, and will endeavor to answer your questions in sufficient detail to enable you to present a comprehensive picture of our program to your associates on the attending staff of the Los Angeles County General Hospital.

Permit me to point out that *patients who have received care at the hospital are billed only for the actual cost to the county of providing hospitalization. Services of the attending staff being gratuitous,* the bills do not represent a charge for such medical attendance as is rendered by the attending physician.

Your specific questions relative to the subject of collections are answered seriatim:

1. Question.—Whether every patient who comes into that hospital is sent a bill, either to himself when he is discharged as a living patient or to his estate in case of death?

Answer.—The hospital business office prepares a bill for every in-patient [10] of the Los Angeles County General Hospital (except patients of the contagious diseases and jail wards), and forwards same to Collection Division. This division accumulates any other charges for services rendered by the Department of Charities and forwards the bill to the client or responsible relative. A bill is not sent to the client, however, during such time as he is the recipient of public charity, it

being obvious that he would have no ability to reimburse.

* * *

[10] Comment.—This statement implies that even the proven indigents are billed for "hospitalization." The last portion of Answer 1 is not clear. If the patient is not an indigent, by what legal right does he become the "recipient of public charity"; that is, become the recipient of public moneys? Granted, however, that he is "such a recipient of public charity," and has means to reimburse the county, why should not a statement for hospitalization services be rendered to him in the same manner as bills are submitted to patients in private hospitals, namely, while he is still in the hospital, with payments in advance?

And on what basis was it construed that it is "obvious that he [the patient] would have no ability to reimburse"?

* * *

2. Question.—Where do these papers accumulate, and in whose charge?

Answer.—All bills for services rendered by any unit of the Department of Charities accumulate in the Collection Division.

3. Question.—Who is the chief of the department; who are deputies in the said department?

Answer.—The Collection Division is in charge of the undersigned, responsible to the Superintendent of Charities.

4. Question.—Who has the final decision on stating whether some accounts shall be nullified, and if they can be nullified, what are the State and county ordinances that permit nullification, and in whom is the authority for nullification vested?

Answer.—Sections 2603 and 2576 of the Welfare and Institutions Code reads as follows:

"2603. If a person for the support of whom public moneys have been expended acquires property, the county shall have a claim against him to the amount of a reasonable charge for moneys so expended and such claim shall be enforced by action against him by the district attorney of the county on request of the board of supervisors. . . ."

"2576. The board of supervisors shall, in the case of aid granted by institutional care, fix a reasonable charge therefor, which shall be the measure of reimbursement to the county, and the existence of the order fixing the charge shall constitute *prima facie* evidence of its reasonableness."

Under the above sections a recipient of county aid is liable for reimbursement at any time he becomes possessed of property.[11] There is no authority for the 'nullification of charges.' In certain instances, the Board of Supervisors has adjusted claims against a recipient of aid, accepting in full payment a lesser amount than the total charges.

* * *

[11] Comment.—In view of an action under consideration by the California Supreme Court as announced in the press on January 5, 1938, and others reasons, the question of the constitutionality of certain Welfare Code provisions comes up for consideration. See Exhibit H, on page 112, for the news item concerning the Supreme Court decision.

* * *

5. Question.—What was the date under which this new ordinance or law went into effect, so far as passage by the Board of Supervisors was concerned?

Answer.—The provisions of law authorizing the county to collect reimbursement for aid to indigents are not new, first appearing in the Statutes of 1901 in substantially the same form as the above quoted sections.[12] The responsibility for collection of such claims against indigent clients of the county is placed upon the Superintendent of Charities by Rule 6N, Section 4, of the County Rules Ordinance 929 NS, which also has been in effect for many years. The only recent enactment by the Board of Supervisors relative to reimbursement was the resolution of June 29, 1937, adopting a new schedule of charges for institutional care, whereby the hospital charges were made to conform, in so far as possible, to the actual cost to the county of providing care.

* * *

[12] Comment.—If the laws governing collections were enacted in the year 1901, and, as is here stated, first applied in their present form on July 1, 1937, who were the county officers who were to blame for negligence during these thirty-six years? And who are the present county officials who made the discovery for the institution of the new system, and what were the recommendations made to the Board of Supervisors for adoption through county resolutions or ordinances?

* * *

6. Question.—When did the bureau or division that has charge of the enforcement of the ordinance become operative?

Answer.—As previously stated, the Superintendent of Charities is responsible for securing reimbursement to the county. The Collection Division of the Department of Charities, as it exists today, was created May 20, 1935. Prior to that time collections for the Department of Charities were handled by the Property Section.

7. Question.—What did they do with the accounts of all the patients who were in prior to the ordinance becoming operative?

Answer.—Following the adoption of the revised schedule of charges, a policy of billing all institutional patients at the time of discharge was placed in effect by this department. Prior to July 1, 1937, billing was restricted to those hospital patients for whom bills were recommended by the Hospital Social Service Department. It was felt[13] that it would be more equitable to bill all patients and then arrange payments in accordance with financial ability, rather than bill only a restricted group selected on the basis of immediate financial ability. Under the new system, the client is made aware of his obligation, even though there is no immediate prospect of payment.

* * *

[13] Comment.—Who were the county officials who had this "feeling," and who gave them the legal advice to proceed as here indicated? And

what is the purpose of an elaborate system of bookkeeping, to carry accounts, which are known in advance to be of no value? This same practice was rather caustically criticized not so long ago in the report of a survey instituted by the county's Bureau of Efficiency, in connection with the out-patient service of the Los Angeles County Hospital.

* * *

8. Question.—Has every patient since the ordinance became operative, without exception, either in person or through his estate, been the recipient of a notice to pay up?

Answer.—Since July 1, 1937, every in-patient has been billed, with the exceptions noted in '(1)' above.

9. Question.—What is the total amount of money that has been received in cash since the Bureau of Collection became operative?

Answer.—In the fiscal year 1936-1937, the Collection Division of the Department of Charities secured county reimbursement totaling $581,-299.23, of which $306,974.02[14] was on Los Angeles County General Hospital accounts.

* * *

[14] Comment.—According to this item, the County of Los Angeles, in the fiscal year July 1, 1936-July 1, 1937, was reimbursed by patients to the amount of $306,974.02. The five hundred members of the attending staff of physicians and surgeons who gave professional services, which have been estimated to have a money value of some two millions of dollars, received not one penny for their services! And, unbelievable as it may seem, up to the present time, in spite of repeated efforts, the attending staff has been unable to even secure an annual printed report of its professional work! Physicians are, indeed, strange mortals as regards the extent to which they carry their altruism (not only to the indigent and near-indigent sick, but to the taxpayers at large).

* * *

10.—Question.—What is the total amount of money that is scheduled in pledges?

Answer.—In this question it is uncertain what was meant by the word 'pledges.' Practically all patients of Los Angeles County General Hospital sign an agreement to reimburse the county for the cost of providing care. If the applicant is possessed of property of an assessed valuation in excess of $250, he is required to give a lien thereon as a condition of receiving aid (Rule 6h, Section 4, County Rules Ordinance 929 NS). In this fiscal year [beginning July 1, 1937] to November 1, 1937, bills were prepared by the hospital business office in the total amount of $1,169,921.87. [Ed. note.—A period of four months. On this basis, the total of bills sent out for 'hospitalization' only, to cover the entire year, would be $3,509,765.61!]

11. Question.—What is the maintenance cost of perpetuating this bureau that sends out all these notices?

Answer.—The cost of actual collection effort for the fiscal year 1936-1937 totaled $109,383.09,[15] or 18.7 cents on the dollar collected. The method of computing this figure was the same as that used by the Grand Jury investigators, who reported a cost of approximately 27 cents on the dollar for the fiscal year 1935-1936. You will note that the cost of collections has been sharply reduced in the last fiscal year.

* * *

[15] Comment.—If hospitalization statements to the amount of $3,509,765.61 will be sent out to County Hospital patients for the present fiscal year, and if again, as during last year, the sum of only $306,974.02 is collected, it would appear that about 90 per cent of the statements might be termed "bureaucratic bookkeeping"! And for what purpose? Would such a system be carried on in business circles? (A letter, dated January 24, 1938, received as this copy was in the hands of the printer, stated: "For the period July 1 to December 31, 1937, the amount representing the sum of all bills which have been sent to this division from the General Hospital represents $2,366,779.30. This represents 32,469 bills referred to us by the Los Angeles County General Hospital." The above was for the first six months. For the entire year, on that basis, $4,733,588.60 would represent the total amount of bills sent out!)

* * *

12. Question.—What is the pro rata maintenance cost of any other county departments that do part of the work of notification or of collection from these supposedly indigent patients?

Answer.—No figures are available on the cost to the institutions of preparing bills, this work being an integral part of the respective business offices.

13. Question.—What are the numbers of the ordinances, the dates on which passed, and the exact text of the ordinances that apply to this work?

Answer.—As previously cited: Sections 2603 and 2576 of the Welfare and Institutions Code.

14. Question.—What are the numbers of the ordinances; the dates on which passed; and the exact text of the ordinances that apply to this work?

Answer.—Rule 6, Section 4, County Rules Ordinance 929 NS (adopted October 1, 1923, and frequently amended), prescribes certain eligibility requirements for county aid, including the lien provision and the section making it mandatory upon the Superintendent of Charities to attempt collections.[16]

* * *

[16] Comment.—As previously stated, and especially in view of the recent California Supreme Court action, the question of instituting a test case to determine the constitutional points involved might well become a matter quite worthy of consideration.

The "frequently amended" rule concerning "eligibility requirements for county aid, including the

lien provision," should be carefully studied, from both the legal and social welfare standpoints.

* * *

15. Question.—What other counties and states have this?

Answer.—Unknown.

16. Question.—By whom were these proposed ordinances submitted to the Board of Supervisors, and through what committee of the Board of Supervisors were they presented to the entire Board for enactment?

Answer.—Probably[17] these orders were prepared by County Counsel at the express request of the Board.

* * *

[17] Comment.—The word "probably" seems out of place. It seems curious that the director of a county department division, which department sends out statements each year to the amount of $3,509,765.61, should not have, in the records of his office, the memoranda showing the official actions of the county's Board of Supervisors upon which the legal authority for his procedures must be based!

* * *

17. Question.—What portions of the Kern County Hospital Appellate Court Opinion is being used by the County Hospital as a basis for charging practically all patients a per day residence rate?

Answer.—The basis for claiming reimbursement from a county client is found in the previously cited section of the Welfare and Institutions Code; *not* in the Kern County decision.[18] The Kern County decision was taken into account, however, when the Board of Supervisors was requested to adopt a new schedule of charges for hospital care, based on a cost accounting system, to supersede the old flat charge rate of $4.00 per day. On this subject the Court expressed the following views:

"The defendants estimated the cost of hospitalization in the County Hospital at three dollars per day per patient. In arriving at this figure, no account was taken of a capital investment of several hundred thousand dollars, nor of depreciation. The amount of daily cost was reached by taking the total number at the Hospital, which included the dependent aged, as the divisor, and the total spent for the operation of the Hospital as the dividend, and dividing the result thus obtained by the number of days in the year. It is obvious that the daily cost of caring for an aged poor person who does not require hospitalization would not be as great as that of a strictly hospital patient. It is also obvious that the average daily cost of care and treatment of a patient hospitalized for a simple illness would not be as great as that of a strictly hospital patient. It is also obvious that the average daily cost of care and treatment of a patient hospitalized for a simple illness would not be as great as that of a serious operative case. The method used in reaching the daily cost per patient was so inaccurate and unbusinesslike that the result could not reflect the true daily cost to the county of any one patient. This must have resulted in gifts of county money to at least those patients who paid nothing and to those who paid only three dollars per day and who were serious operative cases."

* * *

[18] Comment.—See also Comment No. 7, previously considered, in re: Kern County Hospital opinion. It is suggested that a careful study of the Kern County Appellate Court decision be made by competent legal advisors of the county, and written opinions recorded, before bureau or other chiefs be given authority to make interpretations thereon that may be in error.

* * *

18. Question.—Any other pertinent information on the subject?

Answer.—Therefore, to conform with latest legal precedent on subject, the Department of Charities initiated the policy of billing clients on the basis of the actual cost of services rendered. The ultimate amount paid by the client is determined by his future resources, if any, and payments are adjusted according to financial ability. As the so-called Kern County decision runs counter to the acceptance of full-pay patients[19] by the county hospitals (with certain exceptions) this department has attempted to reconcile the views of the court to the provisions of law regarding reimbursement in a manner permitting the practical appliance without running contrary to legal interpretation.

* * *

I trust that the answers to your questions are sufficiently clear, and will be glad to give you any further information on the subject that you may desire.

Yours very truly,

REX THOMSON,
Superintendent of Charities.

By J. C. GREER,
Director, Accounts and Statistics.

* * *

[19] Comment.—The phraseology of this sentence leaves one in doubt as to whether this new system of collection was instituted independently, or with the written consent of the county's legal department.

Equally strange is the reference to "full pay patients." Up to now, it has been generally thought that the county hospitals of California were intended, by constitutional and legislative provisions, to provide hospitalization and medical care only for indigent or near-indigent persons who were sick or injured. As we read it, the Appellate Court decision in the Kern County Hospital case would so indicate. This view is also confirmed by the informal opinion, written on short notice, by Mr. Hartley Peart, general counsel of the California Medical Association. (See Exhibits D and E for these, pages 108 and 109.)

Occasionally, it has been stated that county employees not suffering from emergency illnesses or injuries have received treatment. If such cases are on record, investigation should be made to determine whether statements were sent to such patients, and also whether reimbursement was made. Another item for investigation would be amount of reimbursement made by insurance carriers for care to industrially injured citizens (Industrial Act of California).

EXHIBIT C

Presents:

1. The "form letter" which is sent to every in-patient after his dismissal from the Los Angeles County Hospital.

2. "Sample" of an actual statement rendered to a patient on the obstetrical service.

* * *

"County of Los Angeles
Department of Charities
Los Angeles, California
September 27, 1937.

Address reply to: Collection Division, Room 210, 434 S. San Pedro Street.
Re: ————
File No.————
Mr. ————
———— Street
Los Angeles, California
Dear Mr. ————

The account for aid advanced by the Department of Charities—County of Los Angeles, as shown above, has been referred to this office for collection.[20]

Remittance for the full amount should be made by return mail. If this is not possible because of financial conditions, *it will be necessary for you to call at this office on or before* (date) to arrange a definite plan of settlement consistent with your ability to pay.

Remittances are to be made payable to Department of Charities—County of Los Angeles, and mailed to this office. Kindly keep us informed of any change of address.

Your prompt attention is anticipated.

Yours very truly,
DEPARTMENT OF CHARITIES
Collection Division
By ————

Notice: Please bring or return this letter with remittance. All aid advanced by the Department of Charities is collectible from the party receiving such aid, or from legally responsible relatives, as provided by State Law and County Ordinance. If care is given in any County Institutions, collection at the full legal rate established by the Board of Supervisors is at all times enforceable."

* * *

[20] Comment.—Attention is called to the language used in this letter, in which reimbursement to the County of Los Angeles is practically demanded of indigent and near-indigent patients, no mention being made of the fact that attending physicians have given the medical and surgical services without cost to patients or taxpayers. As a matter of fact, to the untutored, and to those who are not such, the phrase, "aid advanced by the Department of Charities," would seem to imply not only hospitalization (board, ward bed and nursing), but also professional services! Probably nine out of ten of the unfortunate citizens receiving such statements so construe the meaning of the letter. It is not difficult to imagine the consternation which must many times come to a poor wage earner, or indigent citizen, on receiving, of a sudden, such a letter, with the statement of his indebtedness for a large sum, to cover the cost of board, room and nursing given by the County of Los Angeles, which, in many cases, the patient and relatives thought were being supplied without cost.

* * *

Copy of Statement

Statement (date)
File No. ————
Aid advanced to ———— Baby
Address: As below
City: Los Angeles, California
Aid advanced by LACGH [Los Angeles County General Hospital]
Bill to ————
Address: Los Angeles, California
To County of Los Angeles,
Department of Charities
Collection Division
434 South San Pedro Street,
Los Angeles, California

* * *

Excerpts from Statement
(Copy)

Date	*Description*	*Charges*	*Balance*
	Statement for Infant		
Oct. 5-17, 1937	Obstetrical ward (infant) twelve days at $1	$ 12.00	$ 12.00
	Statement for the Mother		
Oct. 5- 8, 1937	Obstetrical ward (adult) four days at $4.46	$ 17.84	
Oct. 9-17, 1937	Infected obstetrical ward (adult) eight days at $4.23	33.84	
Oct. 5, 1937	Ambulance to hospital	2.50	
Oct. 5, 1937	Operative — Cesarean section[21]	136.80	
Oct. 9, 1937	Operative — Blood transfusion (450 cc.)	22.50	
Oct. 9, 1937	X-ray of chest	1.93	$215.41

* * *

[21] Comment.—The item in the statement sent to this particular patient for the use of the operating room and the services of its nursing personnel (for that is what is meant by the euphonious and misleading words, "Operative—Cesarean Section.....$136.80") is little less than appalling! For comparison, in the California Hospital, of Los Angeles, the use of the operating room for a cesarean section would be $10, and at the Cedars of Lebanon Hospital, $12.50. But the County of Los Angeles charged this supposedly indigent patient, for the same hospitalization not one whit better, the extraordinary sum of $136.80! Because of such extortionate charges, included in statements sent out by the County of Los Angeles, complaints are beginning to come in from all parts of the county—to the Public Health Committee of the Los Angeles Chamber of Commerce, to physicians and others. If a circular letter were to be sent to all patients who have been billed in the last six months, some most astounding and heart-rending revelations would, no doubt, be forth-

coming! Will such an investigation be made by the constituted public authorities who have responsibility in this?

The charge of $136.80 was evidently based on the illuminating footnote, "Explanation of Operating Room Service Unit," attached to Superintendent Gray's fee table, as given in Exhibit A, on page 100, with estimate *charges of so much per minute!* It will be interesting to learn what party or parties will now assume the responsibility for having promulgated the aforesaid fee table of hospitalization charges.

In the above excerpts from the statement under discussion, the words "Operative—Cesarean Section" certainly indicate "professional service" rather than "hospitalization." If such be the case, is not then a statement so rendered an example of frank misrepresentation? And if so, should such a practice be countenanced or continued?

EXHIBIT D

Presents:

1. The full opinion of the California Appellate Court (Fourth District) handed down on January 30, 1936, and presumably used as a partial or complete justification for the institution of a new system for securing reimbursement for hospitalization services from former county hospital patients. The court's rulings are practically all included under Item 8 of the opinion, and a careful perusal of that item is suggested, especially since its substance is referred to in several of the exhibits here presented. (See page 108 for Item 8.)

* * *

PUBLIC HOSPITALS IN CALIFORNIA CANNOT HOSPITALIZE NON-INDIGENT PATIENTS*

OPINION OF THE APPELLATE COURT (FOURTH DISTRICT) AFFIRMING DECREE OF INJUNCTION RENDERED BY SUPERIOR COURT JUDGE K. VAN ZANTE

Because of its medical and legal importance and interest to the citizens and medical profession of the State of California, the opinion of the Appellate Court rendered on January 30, 1936, affirming, as modified, the decree of judgment rendered on December 4, 1933, in the Superior Court of Kern County, California, by Judge K. Van Zante is reprinted. Since this decision was handed down on January 30, 1936, it has been frequently referred to, especially in connection with county hospitals in California, whose administrators were extending the scope of such public institutions, into fields beyond their original scope.

The Appellate Court opinion follows.

* * *

Civil No. 1761. Fourth Appellate District

January 30, 1936

O. P. Goodall, T. M. McNamara, P. J. Cuneo, S. C. Long, H. N. Brown, F. J. Gundry, C. S. Compton, W. H. Moore, L. H. Fox, and L. C. McLain, Plaintiffs and Respondents, vs. Perry Brite, Stanley Abel, W. R. Woollomes, J. O. Hart, and Charles W. Wimmer, individually and as members of the Board of Supervisors of Kern County, and Kern County, a legal subdivision of the State of California, Defendants and Appellants.

[1] *Constitutional Law—Public Money—Gifts.*—Section 31 of Article IV of the Constitution prohibits cities and counties from making any gifts of public funds and from using public funds for private purposes, and the legislature cannot authorize the use of county funds for any such purpose.

[2] *Id.—Counties—Hospitals.*—While the board of supervisors of a county has the general power to adopt rules and regulations for the operation of a county hospital, that power must be exercised within the limits of their constitutional powers.

[3] *Id.—Public Health—Police Power.*—The promotion of the public health and general welfare of the citizens of a county falls within the powers granted to counties by Section 11 of Article XI of the Constitution.

[4] *Id.—Counties — Hospitals — Public Health — Police Power—Public Money—Gifts.*—The admission and treatment of patients in a county hospital who, either themselves or through legally responsible relatives, can provide themselves with equally efficient care and treatment in private institutions in the county does not promote the health and general welfare of the citizens of the county and is not a proper exercise of the police power of that county, but results in the use of public money for private purposes in violation of Section 31 of Article IV of the Constitution.

[5] *Id.—Indigents—Hospitals—Public Health—Police Power.*—A patient in need of hospitalization, who cannot himself, or through legally liable relatives, pay the charges of a private institution, but who can pay something toward his care and treatment in the county hospital, should be admitted to the county hospital because the care of such sick and injured promotes the public health and general welfare of the community in which he lives.

[6] *Id.—Counties—Hospitals—Statutory Construction.*—In this action to enjoin defendant board of supervisors from admitting certain classes of patients to the county hospital, there was no merit in the contention that as the legislature has provided that certain classes of patients in the county hospitals may pay for their care, under the maxim, "Expressio unis est exclusio alterius," the members of no other class who can contribute to their care can be admitted, and that as it is provided that those belonging to certain classes shall be admitted, no others can be received.

[7] *Id.—Hospitals—Emergency.*—In such action, the injunction issued by the trial court should have provided that in cases of accident or sudden illness, or of public disaster, such as fire, earthquake, floods, storms or epidemics, people injured or rendered suddenly ill, and for whom immediate hospitalization is made necessary, should be admitted promptly; but in such cases investigation should be made of their abilities to pay for the services rendered, and the Board of Supervisors should not hesitate to collect the full cost of hospitalization from those able to pay, and from others not able to pay in full, a fair amount, to be determined after an investigation of their resources.

[8] *Id.—Injunction—Statutes.*—In such action, the injunction issued by the trial court was not sufficiently elastic, in that it failed to provide for any contingency arising from changes in state legislation relating to the classes to be admitted and the conditions of admissions to county hospitals.

Appeal by defendants from a judgment of the Superior Court of Kern County, K. Van Zante, Judge, in an action for an injunction. Affirmed as modified.

For Appellants—Thomas Scott, District Attorney; W. A. McGinn, Assistant District Attorney; Borton & Petrini, Special Counsel.

Amici Curiæ for Appellants — Nutter & Rutherford, Stephen Dietrich.

For Respondents—Siemon, Claflin & Maas; Hartley F. Peart; Finlayson, Bennett & Morrow.

Amici Curiæ for Respondents—Elvon Musick, Howard Burrell, E. Perry Churchill.

* * *

*The plaintiffs are citizens and taxpayers of the County of Kern. The individual defendants are the members of the Board of Supervisors of the county.**

Kern County maintains a hospital for the hospitalization of the sick and injured as well as for the care of the indigent poor and indigent aged of the county. The hospital is a well-equipped institution. With the tacit, if not the express, consent of the supervisors, it is the practice to admit as patients persons well able to pay for hospitalization in private institutions, either themselves or through relatives legally liable for their support and, also, persons who can pay only part of the cost of their hospitalization in the county institution and who obviously cannot pay the higher costs of private hospitalization. *The plaintiffs challenged the right of defendants to use county funds to provide hospital care for these two classes of patients except in certain instances where such practice is permitted by statute.*

It is freely conceded by counsel for defendants that they have provided hospitalization in the county hospital for these two classes of patients and that they will continue to do so if not enjoined by order of court. It is also ad-

* This caption and its subhead, with introductory paragraph, are reprinted from CALIFORNIA AND WESTERN MEDICINE, March, 1936, on page 189.

* Editor's Note.—Italics our own.

mitted that in the past both these classes of patients have been asked to make "donations" toward the cost of their hospitalization; that no charges have been made against them and that no effort has been made to collect from any of them where the donations had not been made. It is also apparent from the evidence that some citizens of Kern County who were financially able to pay for hospitalization and treatment in private institutions had been hospitalized for considerable periods of time in the county hospital without making any payments therefor. The trial court, on ample evidence, found there were sufficient private hospitals in Kern County to satisfactorily care for all cases hospitalized in the county hospital where the patients, or relatives legally liable for their support, could have paid for private hospitalization. Therefore, we do not have presented here any question of the right of a county hospital to receive a patient possessing substantial means where there was no other hospital within a reasonable distance which could afford him proper care and treatment.

Boards of supervisors are given the express power to establish and maintain county hospitals and to provide rules for their government and management. (Sec. 4223, Political Code.) A like power is given them to establish and maintain almshouses and county farms. (Sec. 4224, Political Code.) In Kern County the poor are cared for at the county hospital. Therefore, it is a combination county hospital and almshouse.

Defendants maintain that as the Board of Supervisors of Kern County is given the power to "establish" and "maintain" a county hospital and provide rules for its "government" and "management," the question of who shall be admitted and upon what terms is within the sound discretion of the board and cannot be controlled by injunction. They also urge that Section 11 of Article XI of the Constitution vests in counties police powers which are as broad as those possessed by the state, except where prohibited by statute. From this they argue that as the promotion of the health of the residents of Kern County, as well as the promotion of their general welfare, is one of the principal police powers given under this section they may admit to the hospital any resident of Kern County possessing the necessary qualifications of residence regardless of his ability to pay and without making any charge against him.

We will first consider these questions from the point of view of the admission to the hospital of those patients who either themselves, or through legally liable relatives, are able to secure and pay for hospitalization and treatment in private institutions.

Section 31 of Article IV of the Constitution "took from the legislature the power to give, lend, or authorize the giving or lending of the state's credit, or that of any county, city and county, city or township, or other political corporation or subdivision of the state, in aid of or to any person, association, or corporation, municipal or otherwise, or to pledge the credit thereof in any manner whatever, for the payment of the liabilities of any individual, association, municipal or other corporation, whatever; or to make or authorize the making of any gift of any public money or thing of value to any individual, municipal or other corporation whatever.

"These limitations divested the legislature of all power to make appropriations of money to any private or quasi-public corporation or to make any gift to any municipal or public corporation not under the exclusive control and management of the state. It also deprived the legislature of the power to authorize counties to make donations or gifts or pledges of credit to such associations. *The Constitution does not give to any department of the state government any power whatever to engage in private business or enterprise, or to manage and control private corporations or quasi-public corporations for private profit, although such corporations may be carrying on enterprises or performing functions which are for general public benefit and which tend to promote the general welfare. Our state government has no such powers." (People* vs. *San Joaquin Valley etc. Assn.,* 151 Cal. 797.)

[1] *It has been held that this same section of the Constitution prohibits cities and counties from making any gifts of public funds and of using public funds for private purposes. (Pacific Mutual Life Ins. Co.* vs. *County of San Diego,* 112 Cal. 314; *City of Oakland* vs. *Garrison,* 194 Cal. 298; *Chapman* vs. *City of Fullerton,* 90 Cal. App. 463.) The legislature cannot authorize the use of county funds for any such purposes. (*Conlin* vs. *Board of Supervisors,* 99 Cal. 17; *Conlin* vs. *Board of Supervisors,* 114 Cal. 404; *Johnston* vs. *County of Sacramento,* 137 Cal. 204.)

[2] *It must be conceded that while the board of supervisors has the general power to adopt rules and regulations for the operation of the Kern County hospital, that power must be exercised within the limits of their constitutional powers. It must be further conceded that if their acceptance for hospitalization of patients who, themselves, or through legally liable relatives can provide efficient hospitalization elsewhere, amounts to a gift of public funds to private persons which is prohibited by Section 31 of Article IV of the Constitution, its continuance may be enjoined by the courts.*

In discussing the extent of the grant of police powers to municipalities by Section 11 of Article IV of the Constitution the Supreme Court in the case of *Miller* vs. *Board of Public Works,* 195 Cal. 477, said: "The police power of a state is an indispensable prerogative of sovereignty and one that is not to be lightly limited. Indeed, even though at times its operation may seem harsh, the imperative necessity for its existence precludes any limitation upon its exercise save that it be not unreasonably and arbitrarily invoked and applied. (*Hadacheck* vs. *Sebastian,* 239 U. S. 394, Ann. Cas. 1917B, 927, 60 L. Ed. 348, 36 Sup. Ct. Rep. 143; *District of Columbia* vs. *Brooke,* 214 U. S. 138, 149, 53 L. Ed. 941, 29 Sup. Ct. Rep. 560; see, also, Rose's U. S. Notes.) It is not, however, illimitable, and the marking and measuring of the extent of its exercise and application is determined by a consideration of the question of whether or not any invocation of that power, in any given case, and as applied to existing conditions, is reasonably necessary to promote the public health, safety, morals (*Hannibal etc. R. R. Co.* vs. *Husen,* 95 U. S. 465, 470, 471, 24 L. Ed. 527; *Boston Beer Co.* vs. *Massachusetts,* 97 U. S. 25, 24 L. Ed. 989), or general welfare of the people of a community. (*Chicago, B. & Q. Ry. Co.* vs. *Illinois,* 200 U. S. 561, 592, 4 Ann. Cas. 1175, 50 L. Ed. 596, 26 Sup. Ct. Rep. 341; see, also, Rose's U. S. Notes.) . . .

"In its inception the police power was closely concerned with the preservation of the public peace, safety, morals, and health without specific regard for 'the general welfare.' The increasing complexity of our civilization and institutions later gave rise to cases wherein the promotion of the public welfare was held by the courts to be a legitimate object for the exercise of the police power. As our civic life has developed so has the definition of 'public welfare' until it has been held to embrace regulations 'to promote the economic welfare, public convenience and general prosperity of the community.' (*Chicago, B. & Q. R. R. Co.* vs. *Illinois, supra.*) Thus, it is apparent that the police power is not a circumscribed prerogative, but is elastic and, in keeping with the growth of knowledge and the belief in the popular mind of the need for its application, capable of expansion to meet existing conditions of modern life and thereby keep pace with the social, economic, moral, and intellectual evolution of the human race. In brief, 'there is nothing known to the law that keeps more in step with human progress than does the exercise of this power.' (*Streich* vs. *Board of Education, supra*), and that power 'may be put forth in aid of what is sanctioned by usage, or held by the prevailing mortality or strong and preponderant opinion to be greatly and immediately necessary to the public welfare.' (*Noble State Bank* vs. *Haskell,* 219 U. S. 104, Ann. Cas. 1912A, 487, 32 L. R. A. [N. S.] 1062, 55 L. Ed. 112, 31 Sup. Ct. Rep. 186; see, also, Rose's U. S. Notes.)" See, also, *Coelho* vs. *Truckell,* 82 Cal. App. Dec. 639.

In *Jardine* vs. *City of Pasadena,* 199 Cal. 64, it is said: "The selection of the hospital site was a matter witnin the legislative discretion of the board of directors of the city, and unless in the exercise of that discretion the board acted arbitrarily and unreasonably, its action ought not to be enjoined.

" 'The location, establishment and maintenance of such an institution is clearly within the scope of the police power of the city. General police authority to protect the public health is conferred upon the city by Section 11 of Article XI of the State Constitution, which provides that "any county, city, town, or township may make and enforce within its limits all such local, police, sanitary and other regulations as are not in conflict with general laws." ' "

[3] It follows as an inescapable conclusion from what has been said in the cases from which we have quoted that the promotion of the public health and general welfare of the citizens of Kern County falls within the powers granted to the county by Section 11 of Article XI of the Constitution. *Does the hospitalization in the county hospital of those able to secure efficient hospitalization in other institutions promote the health and general welfare of the citizens of Kern County? The answer to this question will determine whether that policy falls within the protection of the provisions of Section 11, and also whether the expenditure of public funds for that purpose amounts to a use of them for a public purpose or gifts to private persons.* This last follows, because, if the use of the money for the purposes specified promotes the health or general welfare of the people of Kern County, that in itself should be held to be expenditures for a public purpose and not gifts to private persons.

[4] In approaching this question it should be borne in mind that the record establishes the fact that there are excellent privately owned hospitals in Kern County with sufficient facilities to care for those who can pay for their care and treatment. It seems, therefore, that the question is not so much the preservation of the health and general welfare of the financially able citizens of the county as it

is one of the preservation of their private resources. If a patient can be given the same and equally efficient care and treatment in a private hospital that he can receive in the county institution, his choice of a hospital does not determine his chances of recovery but merely the amount he must pay to be healed, and whether he will pay the established charge of a private institution, or nothing or the small donation hoped for by the county hospital. The preservation of the health and general welfare of the citizens of the county is a question of the prevention and cure of disease generally, and not the accomplishment of these ends by any particular means or in any particular institution. *We, therefore, conclude that the admission and treatment of patients in the county hospital who, either themselves or through legally responsible relatives, can provide themselves with equally efficient care and treatment in private institutions does not promote the health and general welfare of the citizens of Kern County and is not a proper exercise of the police power of that county and results in the use of public money for private purposes.*

We have further facts in the record bearing upon the question of the use of public money for private purposes. The defendants estimated the cost of hospitalization in the county hospital at three dollars per day per patient. In arriving at this figure no account was taken of a capital investment of several hundred thousand dollars, nor of depreciation. The amount of daily cost was reached by taking the total number at the hospital, which included the dependent aged, as the divisor, and the total spent for the operation of the hospital as the dividend, and dividing the result thus obtained by the number of days in the year. It is obvious that the daily cost of caring for an aged poor person who does not require hospitalization would not be as great as that of a strictly hospital patient. It is also obvious that the average daily cost of care and treatment of a patient hospitalized for a simple illness would not be as great as that of a serious operative case. *The method used in reaching the daily cost per patient was so inaccurate and unbusinesslike that the result could not reflect the true daily cost to the county of any one patient.* Thus must have resulted in gifts of county money to at least those patients who paid nothing and to those who paid only three dollars per day and who were serious operative cases.

[5] When we approach the question of those patients who are admitted to the county hospital and who cannot pay for hospitalization in private institutions but who can pay something toward their care and treatment, we have an entirely different situation from the one we have been considering. We must bear in mind that providing hospital facilities to those legally entitled thereto is a proper exercise of the police power of the county (*Jardine* vs. *City of Pasadena, supra*) as it tends to promote the public health and general welfare of the citizens of the county. (*Miller* vs. *Board of Public Works, supra.*) In the second phase of the case we have the problem of the care of the health and the promotion of the general welfare of what we may term the deserving needy but not the pauper class of the county. This class must be hospitalized at the county hospital or permitted to suffer without proper care. It is common knowledge that this class composes a considerable proportion of the body of the citizenship of any county. As a rule those composing it are honest, industrious, and often thrifty people whose welfare should be of first concern to any governmental agency. *It is admitted that a resident pauper must be hospitalized at public expense.* This is a matter of pure humanity and no one, solely because of poverty, should be permitted to suffer because of lack of funds. The same reasons apply with greater force to the class we are considering. We can visualize the head of a family who has employment and can keep it—an honest worker, frugal and thrifty, who supports his family, educates his children, and has perhaps acquired an equity in a modest home. If he is injured, not in the course of his employment, the family income stops and he may require hospitalization and may lack the funds with which to enter a private institution. Must it be said that he should be refused admission to the county hospital because he is not a pauper when if he were a pauper he would be admitted without question? This would amount to the penalizing of honest industry, thrift and independence, and would place a premium on indolence and shiftlessness. *Under the principles of humanitarianism, and in the interest of a sound policy, we are compelled to hold that a patient in need of hospitalization, who cannot himself, or through legally liable relatives, pay the charges of a private institution, should be admitted to the county hospital because the care of such sick or injured promotes the public health and general welfare of the community in which he lives.*

If it were necessary we could find another satisfactory reason for the admission of this class of patients to the county hospital. *It is admitted that indigent persons are to be admitted when in need of hospitalization. As far as we know the term "indigent" has not been defined in California in so far as its use in connection with admissions to county hospitals is concerned.* It has been defined in other states chiefly in connection with the admission of the indigent insane to hospitals. *The term when thus used has been held to include persons with insufficient means to pay for hospitalization after providing for those who legally claim their support.* (*Depue* vs. *District of Columbia,* 45 App. D. C. 54; *In re Hybart,* 119 N. C. 359, 25 S. E. 963; *Mass. Gen. Hospital* vs. *Inhabitants of Belmont,* 233 Mass. 190, 124 N. E. 21; *People* vs. *Board of Supervisors,* 121 N. Y. 345, 24 N. E. 830). *Applying this definition to the instant case, we hold that the word "indigent," when used in connection with admissions to county hospitals, includes an inhabitant of a county who possesses the required qualifications of residence, and who has insufficient means to pay for his maintenance in a private hospital after providing for those who legally claim his support.*

[6] Under the maxim, "Expressio unis est exclusio alterius," it is urged that as the legislature has provided that certain classes of patients in the county hospitals may pay for their care, the members of no other class who can contribute to their care can be admitted, and, further, that as it is provided that those belonging to certain classes shall be admitted, no others can be received.

We cannot agree with this argument. Boards of supervisors are given broad powers in providing for the establishment and maintenance of county hospitals and in prescribing rules for their government and management. (Sec. 4223, Political Code.) *The word "management" has been frequently defined when used in legal phraseology.* When used in a statute giving the husband management and control over his wife's property it has been held to mean that it gave him the power to invest her money. (*Sencerbox* vs. *First National Bank,* 14 Idaho 95, 93 Pac. 369.) When used in the title of an act relating to reform schools, it was held to include provisions in the act providing for the committing of certain juveniles to the schools. (*In re Sanders,* 53 Kan. 191, 36 Pac. 348.) See, also, *Watson* vs. *Cleveland,* 21 Conn. 538; *Commissioners of the Sinking Fund* vs. *Walker,* 7 Miss. [6 How.] 143; *In re Brennan's Will,* 251 N. Y. 39, 166 N. E. 797; *City of Topeka* vs. *Independance Ind. Co.,* 130 Kan. 650, 287 Pac. 708; *Stagway* vs. *Riker,* 84 N. J. Law 201, 86 Atl. 440. *When a board of supervisors is given management of a county hospital, that body is given the power to adopt rules for the admission of patients, provided, of course, that they must admit those entitled by law to enter and cannot admit those whose reception is prohibited by law of the Constitution.* In their rules of admission they should have the power to provide for the payment for care by those not financially able to secure hospitalization in a private institution, the amount to be paid to be determined to its maximum by the cost to the county of hospitalization of each individual patient and charged to the patient on his ability to pay. In the administration of public funds the supervisors are acting as trustees and they should so administer those funds as to lighten the taxpayers' burden as much as possible.

[7] *Another class of patients which should be admitted to county hospitals deserves our consideration.* In cases of public disaster, such as fire, earthquake, floods, storms, or epidemics, people may be injured or rendered suddenly ill and immediate hospitalization may be necessary to save life. The same is true in cases of accident or sudden illness. In such cases, delays in admissions to permit investigations of the financial conditions of the patients might cause loss of life. Such patients should be admitted promptly, investigation of their abilities to pay should follow. Ordinary humanity could dictate no other course. In such cases boards of supervisors should not hesitate to collect the full cost of hospitalization from those able to pay, and from others not able to pay in full, a fair amount, to be determined after an investigation of their resources. We have stricken clause "i" from the decree of the trial court and have added another under the same letter to provide for such cases.

* * *

[8] The decree in this case is not elastic. Over a period of years the legislature has changed and increased the classes to be admitted to county hospitals. That body may continue with such legislation and many provide for the admission of new classes, or restrict those now admitted, or place new conditions upon admissions. To take care of this contingency we have added clause "j" to the decree.

Defendants complain that the decree as rendered is uncertain in several particulars. Plaintiffs in effect admit the charge by proposing amendments to it. We have studied the decree as amended by them and have concluded that it substantially meets the objections of defendants. On our own motion we have stricken one paragraph which plaintiffs proposed to retain as we regard it as surplusage.

It is ordered that the decree of injunction rendered by the trial court on December 4, 1933, be modified by striking therefrom the words, letters and figures not appearing in the decree of injunction hereinafter set forth and adding the words, letters and figures appearing in the decree of injunction hereinafter set forth which do not appear in the said decree signed by the trial judge *so that the decree of*

injunction in this case shall read as follows: (Following the title of the court and cause.)

"The above-entitled matter having been heretofore heard and determined by the undersigned Judge of the Superior Court of the State of California, written findings of fact and conclusions of law having been heretofore duly and regularly signed and filed herein ordering judgment in favor of the above-named plaintiffs and against the above-named defendants as hereinafter given and made, and the case being in all respects ready for final judgment and decree:

"It is therefore ordered, adjudged, and decreed that the defendants Perry Brite, Stanley Abel, W. R. Woollomes, J. C. Hart, Charles W. Wimmer, individually, and as members of the Board of Supervisors of Kern County, and Kern County, a legal subdivision of the State of California, and each of them, and every officer, deputy, agent, appointee, subordinate, servant or employee of the above-named defendants, or either or any of them, and particularly and especially the officers, deputies, agents, employees, appointees, servants, doctors, superintendents, heads of departments, internes, nurses, and assistants, and all other persons acting under defendants or any of them in any matter relating to the operation, maintenance, administration, or conduct of that certain County Hospital of the County of Kern known as the Kern General Hospital, be, and each of such persons *is, and all of them are hereby forever permanently restrained, enjoined, and commanded to desist from admitting to and receiving as patients of, caring for, curing, treating, boarding, nursing, furnishing food or supplies or lodging to, or hospitalizing in, said Kern General Hospital, or at or in any out-patient clinic thereof, any person:**

Who, after due injury and investigation is not found to be an indigent person as herein defined,

or a dependent or partially dependent person in case of emergency,

or who is found, after due inquiry and investigation, to be a person who is himself, or has a relative or relatives legally liable for his support, able to pay for and obtain proper and necessary medical or surgical or hospital care or treatment or services for himself elsewhere than in the county hospital except as hereinafter specified.

The following should be admitted:

(*a*) An indigent sick or dependent poor person.

(*b*) A needy sick and dependent or partially-dependent citizen in case of emergency.

(*c*) A psychopath, narcotic addict or habitual inebriate temporarily in custody.

(*d*) A physically defective and physically handicapped person under the age of eighteen years when the parents or guardians of such person are not financially able to secure proper care or treatment and when such person's admission and treatment has been duly authorized in the manner provided by law.

(*e*) A person in the active stages of tuberculosis, in wards established for the treatment of such persons, who is able to pay for such treatment and who, when able to pay, is required to pay for such treatment.

(*f*) A person to be quarantined or isolated in the county hospital with a contagious, communicable or infectious disease.

(*g*) A prisoner confined to any city or county jail who requires medical or surgical treatment necessitating hospitalization where such treatment cannot be furnished or supplied at such jail when the Superior Court of the county shall have ordered the removal of such prisoner to the county hospital and said prisoner elects not to furnish such treatment at his own expense.

(*h*) A county employee injured in the course of his employment by the county when hospitalization is reasonably required to cure and relieve the effects of such injury.

(*i*) A person in need of immediate hospitalization on account of accident or sudden sickness or injury or by reason of sickness or injury caused by or arising in a sudden public emergency or calamity or disaster. Provided,

(*j*) Nothing in this decree shall be construed as restraining defendants from obeying or carrying out or giving effect to any law that may be passed hereafter relating to the hospitalization of patients in county hospitals which may affect the hospital in Kern County.

"It is further ordered that plaintiffs have their costs herein expended taxed at $306.62.

"Done in open court this fourth day of December, 1933.

"K. VAN ZANTE, Judge of the Superior Court."

As so modified the judgment is affirmed. Each party will pay their own costs on appeal.

MARKS, J.

We concur:
BARNARD, P. J.
JENNINGS, J.

* Editor's Note.—This last paragraph in the Opinion has been broken down into subparagraphs for greater convenience in perusal.

EXHIBIT E

Presents:

1. A letter dated January 17, 1938, from Doctor Kress to the General Counsel of the California Medical Association, requesting informal comment to certain questions concerning the Kern County Appellate Court decision.

2. Reply dated January 19, 1938, of General Counsel Peart to the above letter.

* * *

(A letter dated January 17, 1938, from Doctor Kress to Mr. Hartley F. Peart, General Counsel of the California Medical Association, requesting informal comment to some questions concerning the Kern County Appellate Court decision)

"Los Angeles, January 17, 1938.

Mr. Hartley Peart,
1800 Hunter Dulin Building,
111 Sutter Street, San Francisco, California

Dear Hartley:

I dislike to bother you with new queries, but, as stated at the California Medical Association Council meeting on January 15, the admission of patients to county hospitals, who are neither 'pauper indigents' nor 'medical indigents' is a matter of pressing importance.

In the March, 1936, CALIFORNIA AND WESTERN MEDICINE, page 189, you will find the Appellate Court decision in the Kern County Case, and I am asking you for an informal legal opinion on certain of its provisions. . . .

Try to send me some informal notes, but promptly, because they may be of help in editorial and other comment.

Cordially yours,
GEORGE H. KRESS, M.D."

* * *

(Letter dated January 19, 1938, from General Counsel Peart giving some informal opinions on questions contained in Doctor Kress's letter of January 17, 1937. Italics, etc., by the Editor)

"Re Goodall *v.* Brite—County Hospitals
San Francisco, January 19, 1938.

Dear Doctor Kress:

Upon receipt of your letter of January 17 in regard to the above case, we have reëxamined the portions of the court's opinion to which you called our attention, and have reached the following conclusions:

* * *

In regard to the determination of indigency or non-indigency, it appears to us clear, from the opinion of the District Court of Appeal in Goodall *v.* Brite, that boards of supervisors are obliged by law to determine whether or not a prospective

patient is an indigent *prior to admission* in the county hospital *unless* the case is an emergency, as defined in clause (i) of the injunction, viz.:

'A person in need of immediate hospitalization on account of accident or sudden sickness or injury or by reason of sickness or injury caused by or arising in a sudden public emergency or calamity or disaster.'

* * *

With respect to your second question, namely:

'Has a county hospital a legal right to admit an emergency patient as an indigent without first determining that point through social service investigation?'

It is my opinion that the decision in Goodall *v.* Brite conclusively determines the law to be that *boards of supervisors have no legal right to admit a non-indigent patient as an indigent without first determining the fact of indigency by 'due inquiry and investigation.'*

Whether or not due inquiry and investigation requires social service investigation is not determined by Goodall *v.* Brite, although it can be said, without hesitation, that due inquiry and investigation involves a bona fide factual inquiry by competent persons.

The reason that I have answered your inquiry in the above manner is that the injunction of the Superior Court, approved by the District Court of Appeal, specifically enjoins the supervisors of Kern County from

'Admitting to and receiving as patients of, caring for, curing or treating, boarding, nursing, furnishing food or supplies or lodging to or hospitalizing in said Kern General Hospital or at or in any out-patient clinic thereof, *any person who, after due inquiry and investigation,* is not found to be an indigent person as herein defined, or a dependent or partially independent person in case of emergency, or who is found, *after due inquiry and investigation,* to be a person who is himself, or has a relative or relatives legally liable for his support, able to pay for and obtain proper and necessary medical or surgical or hospital care. . . .'

The phrase 'after due inquiry and investigation,' which appears twice in the portion of the injunction above quoted, necessarily implies that boards of supervisors are under a duty to determine the fact of indigency or non-indigency prior to admission in the county hospital, except in those cases coming within clause (i) of the injunction, which I have previously quoted.

* * *

With respect to your next inquiry, namely:

'If a patient is entered as an indigent, by what right do they make the patient sign a note for repayment for hospitalization service later on?' it appears to me that this is a point which has not arisen in the past and, therefore, requires careful examination of all of the statutory and constitutional provisions relating to powers and duties of the several boards of supervisors.

The injunction in Goodall *v.* Brite, which was very carefully prepared and which was approved by the District Court of Appeal after a lengthy and exhaustive hearing, *leads one to believe that the District Court of Appeal assumed that persons admitted to county hospitals as indigent sick or dependent poor persons, after due inquiry and investigation had established such to be the fact, would never be called upon to pay the cost of hospitalization if they should, in the future, acquire resources, but that, on the other hand, the court definitely felt that partially indigent persons should be admitted and that such persons should be required to pay that portion of the cost of hospitalization which their available financial resources would allow.*

Of course, the *court held that persons wholly able to pay* for private hospitalization and for medical or surgical services could not, under any circumstances, be admitted to county hospitals.

* * *

It occurs to us that the situation which you mention in your inquiry could not arise if the court's decision in Goodall v. Brite is followed by the several boards of supervisors, because, if it is followed, due inquiry and investigation are made before admission. Hence, the facts are known, and only those who are partially able to pay need be required to make any payment. *If the court's decision is not followed, and no inquiry and investigation is made, the answer is, of course, that the board of supervisors must be considered to be acting in excess of its statutory authority.*

* * *

The foregoing comments are the result of a hasty reëxamination of the decision in Goodall *v.* Brite, and I am sending this to you without further research because you state in your letter that you are in a great hurry for my comment.

111 Sutter Street.

Very truly yours,

HARTLEY F. PEART."

EXHIBIT F

Presents:

1. A newspaper item of January 6, 1938, stating that the California Supreme Court had evidently found merit in the contention concerning the question, "Do county boards of supervisors have a legal right to demand liens on the property of citizens who had received county aid?"

The court's decision will be awaited with interest, because it may have an important bearing on the action of county authorities in taking liens on the property of former county hospital patients, intended to reimburse a county to cover costs of board, lodging and nursing (the usual hospitalization charges). Should not an indigent sick citizen

be as worthy of consideration as an old age pensioner, who may be in good health?

* * *

(Copy)

COUNTY FACES $960,000 LOSS IN LIEN CASE

State Supreme Court Rules 1937 Law Cancels Hold on Properties of Pensioners

Los Angeles County faces the prospect of losing $960,000 in liens on the property of 4,000 state-aid pensioners as a result of a ruling of the California Supreme Court yesterday.

The Supreme Court issued an alternative writ returnable on January 12 [1938] when Roger Jessup, chairman of the Board of Supervisors, must show cause why he should not release title to the property of eight pensioners. These pensioners accepted liens on their property in favor of the state under the 1935 law in order to obtain state aid.

Test Case

The 1937 law wiped out the necessity for such liens and was designed to cancel all former liens. The county holds 4,000 of them at a face value of $960,000. If the 1937 law is sustained, all of these must be released.

Eight recent cases of deceased pensioners were put into one suit to establish a test case, which by its action the Supreme Court agreed to hear.—*Los Angeles Examiner,* January 6, 1938.

EXHIBIT G

Presents:

1. A letter dated December 23, 1937, from the Superintendent of the Los Angeles County Hospital to the Los Angeles County Auditor, in which attention is called to faulty methods of estimating hospitalization costs, in so far as the same relate to operating rooms and personnel charges.

2. A letter dated December 27, 1937, from the Superintendent of the Los Angeles County Hospital to the Director of Accounts, Budgets and Records of Los Angeles County, calling attention to faults in the system of estimating hospitalization charges, especially as regards the use of operating rooms and personnel.

* * *

(Letter from County Hospital Superintendent to the County Auditor[22]*)*

"The Los Angeles County General Hospital,
Los Angeles, California
December 23, 1937.

Mr. H. A. Payne,
County Auditor,
Room 302, Hall of Records,
County of Los Angeles
Dear Mr. Payne:

When the cost accounting survey at the hospital was undertaken by your office and figures were finally developed as a basis for the making of charges for hospital care to patients of this institution, we were instructed as follows in connection with operating room service:

'Explanation of operating room service units: The total operating room service units per operation is obtained by multiplying the actual number of minutes spent by the patient in undergoing the operation by the number of county paid persons in attendance. The term "operating room" does not apply to surgical operations but is a general term also applicable to orthopedic and obstetrical services.'

Because this hospital is a teaching institution both for internes studying medicine and surgery and for student nurses, there are frequently in attendance in operating rooms persons in excess of the number who would ordinarily be required as a minimum necessary for the performance of the operation procedures. It might be suggested that in the determining of charges that will be entered against the patient, only those persons considered essential should be included in the cost figures maintained. In attempting to accomplish this, however, I am certain we would encounter many difficulties, for our surgeries are scheduled to be in constant use and surgical crews are changing even while the patient just operated is being removed from the table and the next patient, already under anesthesia, is being brought into the operating room. Difficulties would undoubtedly arise should we attempt to have some one individual decide just who in the operating room were essential, as so frequently the assistants considered essential could be determined only by the surgeon. At the moment that such determination should be made, there is no time allowed for 'time out' to permit the designation of certain individuals who should be present, as you will appreciate the patient is even then partially anesthetized, and as soon as he is placed on the table further anesthesia is administered and the attendants immediately busy themselves with preparing the patient for the operating procedure which is to be undertaken immediately. It is of prime importance that no delay be imposed upon or allowed the surgical staff from this moment on. Considering again that 'essential assistants' are so frequently a matter of opinion of the surgeon, it may be readily realized that two identical operations would bear different costs.

The result of following the procedure as outlined has been that charges have been made to patients who have received surgery at the hospital which are ridiculous in their amounts; in fact, it is not uncommon that charges are indicated that are considerably above those that the patient would be required to pay in a private institution. This situation is bringing a great deal of criticism to the hospital and the Department of Charities, and we must agree that in many instances the criticism is entirely justified.

To correct this situation, we strongly urge that the county charge patients for operations depending upon the average cost of performing the type of operation to be undergone by the patient to be charged. These average costs are available, and, if used, would be developed in a manner similar to the development of the costs for routine ward care. For instance, we charge a patient $4.11 per day for care in the pediatric service; $4.10 per day on the orthopedic service; $3.81 on the ear, nose and throat service, and so on through the several services. The care for which these charges are made represents the average cost to the county of providing care for patients on the respective services. It is acknowledged that between two patients on the same service, one may require and receive considerably more nursing attention than the other,

yet the charge made to these two patients is the same inasmuch as the charge is based upon the average cost of care of patients generally upon the ward in question. Could we not then consider it feasible and proper to base our charges for surgery on the average cost of performing an operation of any given character? If this could be allowed, we believe that we would be making our charges on an equitable and defensible basis and we are therefore requesting that every effort be made to authorize the hospital to prepare charges for surgical procedures on the basis suggested.

We feel that it is very important that such changes be instituted as soon as possible in order that the hospital and the county will be relieved at once of the many criticisms that have arisen from the procedures now in practice, of which we do not approve.

Very truly yours,
(Signed) EVERETT J. GRAY,
Executive Superintendent.

cc: Supt. of Charities
Mr. Sydney Ickes
Medical Director, LACH
Medical Director, LACGH
Director, Accounts,
Budgets and Records."

* * *

[22] Comment.—At the end of six months, with an increasing number of complaints being brought to their attention, the Los Angeles County Hospital authorities finally wrote to the County Auditor and County Director of Accounts. Hospital Superintendent Gray's comment, "that charges have been made to patients who have received surgery at the hospital which are ridiculous in their amounts," does not fully tell the story. The word "ridiculous," when applied to the use of an operating room and its nursing and orderly personnel (surgical operation not included) for a cesarean section operation, and for which a charge of $136.80 was made by the County of Los Angeles, with bill sent to a supposedly indigent citizen, surely warrants words and language stronger than the benign term, "ridiculous." How can this six months' delay in rectifying what, from the outset, was nothing less than a patent error, he explained? Would the letters of December 23, 1937, and December 28, 1937, have been written had there been no complaints?

* * *

(Letter from County Hospital Superintendent to County Director of Accounts)

"The Los Angeles County General Hospital
Los Angeles, California
December 27, 1937.

Director, Accounts, Budgets and Records:

Subject: 'Billing Patients for Surgical Operations.'

Will you please arrange at once to instruct those responsible for reporting the names of employees concerned with any surgical operation that to be included in the list of those employees to be charged the patient are those individuals only who are considered essential to the operation to be undertaken. This means specifically that individuals present in surgery for the purpose of instruction, even though they may be taking part in the work to be performed, are not to be charged against the patient UNLESS they are participating in a major way.

It is essential that we correct charges immediately, for I am convinced that the rates charged to patients for certain surgical operations are unreasonable and not justifiable.

I have written a letter to the County Auditor requesting his authority to charge the patients the average cost of given types of operations, but, even before any such authorization which may be undertaken, I am directing you on my own responsibility to follow the above instructions having to do with the elimination from the list of persons whose time is to be charged patients those who are not essential to the operation.

EVERETT J. GRAY,
Executive Superintendent.

cc: Supt. of Charities
Med. Dir., LACH
Med. Dir., LACGH."

EXHIBIT H

Presents:

A recent newspaper item of January 10, 1938, in which are given the total amounts received from former county hospital patients. Whoever gave this "publicity" to the press erred in using the words "medical care," when only room, board and nursing (hospitalization charges) could rightfully be included. The query arises as to the number of taxpayers who would be proud of sums so received by the County of Los Angeles from its indigent citizens if they knew the real story as outlined in skeleton form in these comments.

* * *

$343,489 COUNTY HOSPITAL FEES

Reimbursements made by former patients at the General Hospital during 1937 totaled $343,498, it was announced yesterday by Rex Thomson, County Superintendent of Charities.

A record high for one month was reached last month, when former patients paid in $33,561, the report disclosed.

State laws governing county hospitals provide that each patient treated at the hospital be sent a statement of the exact cost of the medical care administered. The patient is required to pay the hospital when financially able.

County hospitals cannot accept for medical care any person able to pay for such care at a private hospital, unless an emergency exists, according to the statute, Thomson said.—*Los Angeles Times,* January 10, 1938.

EXHIBIT I

Presents:

1. A somewhat pertinent item from a San Luis Obispo County newspaper of December 16, 1937, on an action taken by the attending staff of that county's public hospital.

2. A copy of the letter sent to the Board of Supervisors of San Luis Obispo County, stating why the attending staff took the action noted.

* * *

(Copy)

POLITICAL MANAGEMENT INTOLERABLE, IS CHARGE

All physicians, surgeons, and dentists in San Luis Obispo have withdrawn from any connection with the General Hospital, until changes in the administration are made by the board of supervisors.

The doctors and dentists, in a letter signed by every member of the county medical and the dental associations, and delivered to the county clerk on Thursday morning, resigned from the visiting staff of the hospital.

Complete lack of coöperation between the supervisors and the visiting staff was given as the reason for the resignation. The county board is charged with refusing to act on the suggestions and recommendations of the staff.

The staff is composed of all the doctors and dentists residing in the county, and the work of supervising and assisting in the hospital activities is rotated among them.

Give Reason

Discussing the reasons behind the resignation, the physicians said:

"We have a county hospital which represents an investment of approximately $350,000, and a fine institution. The county medical association organized a visiting staff and tried to operate it as a high-class institution. We have had a rotating staff, changing each three months and working with the county and resident physicians at the hospital, with the hospital doctors under our supervision. All this work has been given gratis by the doctors and dentists of the county.

"In six years of constant effort we have tried to get the hospital as approved and we secured this approval only a few months ago, putting the hospital on a par with the best in the country.

No Coöperation

"But we have been having increasing difficulty in getting coöperation from the board of supervisors, especially in the past few months. We have been trying to get the supervisors to let the doctors of the county assume complete control of the institution, including supervision, and the direction of the county and resident physicians.

"We also are asking for a separate welfare department for the hospital. We believe the people know that there are many patients admitted to the hospital who have no business there, no matter what their income or what might be their ability to pay for hospitalization or medical and treatment costs. This is unfair to the taxpayers who have to pay for the cost of taking care of these people.

"The board of supervisors has completely ignored this situation, and the doctors feel that the hospital has become a political football, with anyone securing an order from a supervisor entering the institution, without regard to the right or need of the patient, to have such free service.

"Twice in the past three months the supervisors, without asking the advice or opinion of the visiting staff, have appointed doctors who have not been admitted to the practice of medicine in California. It was necessary for the State Board of Health to send down representatives to tell the doctors to stop practicing or go to jail, which stopped their continued duties at the hospital.

Work Harmoniously

"Between the doctors of the county, the county and resident physicians and the nursing staff and employees of the hospital, there always has been close coöperation, and patients have been properly cared for.

"It is the unanimous opinion of the medical and dental societies of the county that they can no longer work with the hospital so long as the supervisors continue their present attitude.

"The situation has been growing worse for the past year and a half, and the doctors and dentists of the county want no part in the hospital as it now is being conducted by the board of supervisors."

It was explained that the request for a separate welfare department for hospital cases was needed so that investigation of the ability to pay of patients might be established, so that only really indigent cases, for which the hospital is operated, and the only type of patients admissible under a Supreme Court ruling, would become patients, while those who can pay should go to private hospitals.—*San Luis Obispo Press*, December 16, 1938.

* * *

TEXT OF DOCTORS' LETTER

(Copy)

San Luis Obispo, California
December 14, 1937

Board of Supervisors
County of San Luis Obispo
San Luis Obispo, California

Gentlemen:

Since the establishment of the San Luis Obispo County General Hospital the physicians and surgeons and dentists of the county have organized and maintained an active visiting staff at the hospital. Through their efforts and with the kind coöperation of the nursing staff, the professional standards of the institution have been raised to the point where indigent patients have been receiving professional and nursing care favorably comparable to that received in any public or private hospital. This fact is attested by the recent recognition given our hospital by the American College of Surgeons when they placed it on their approved list of hospitals. This means that the hospital has successfully met the high standards required by that organization throughout the country.

Several months ago we called your attention to the fact that certain methods of operation in connection with the San Luis Obispo County Hospitals were unsatisfactory. We suggested a possible remedy. Nothing has been done to correct the situation. We feel that under the present political management of the hospital, conditions are intolerable. Therefore, the visiting staff of the hospital, in regular meeting assembled, December 7, 1937, unanimously resigned from active service at the hospital, effective immediately.

We wish to remind you that since the establishment of the hospital we have given freely of our services without remuneration—and we might add without the slightest token of thanks or appreciation from your body. We wish also to remind you that throughout the history of the institution there has been a complete absence of friction between all members of the working staff of the hospital. We still stand ready to give our services to the County Hospital, provided that institution is operated for genuinely indigent patients and free from political influence. It is our feeling that this can be accomplished only by giving the visiting staff full control of the scientific operation of the hospital and by the establishment of a social service department at the hospital responsible to us, and to nobody else.

Yours very truly,
(Signed): E. D. ANDERSON,
Secretary, Visiting Staff, San Luis Obispo General Hospital.

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[Comment.]—This concludes the series of exhibits, presented in connection with editorial comment, in this February issue of the OFFICIAL JOURNAL of the California Medical Association. What has been given above presumably only deals with the surface of the principles and facts involved. Every county medical society, through its committee on hospitals, and constituted authorities, should know what is going on in its own county hospital; and any procedures and methods seemingly at variance with the law of the State should be promptly reported to the central office of the Association. The members of the Los Angeles County Medical Association certainly should take an interest in the unusual innovations recently instituted in their own county hospital.

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